

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Michon Desmond Houston

Docket No. 267865

LC No. 03-001609-01

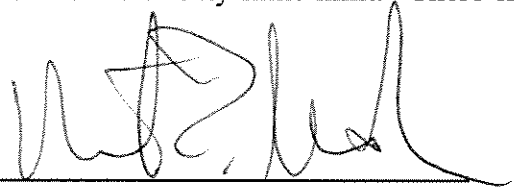
Kurtis T. Wilder  
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly  
Judges

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The Court orders that the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented. MCR 2.119(A)(2) provides that except as permitted by the court, the combined length of any motion and brief may not exceed twenty pages. The rules of civil procedure apply to criminal cases except as otherwise provided by rule or statute, when it clearly appears that they apply to civil actions only, or when a statute or court rule provides a like or different procedure. MCR 6.001(D). MCR 6.502(C) governs the form of motions for relief from judgment, but it does not contain a provision that addresses the length of the motion. The absence of a page limitation does not constitute a different procedure that contradicts MCR 2.119(A)(2). The trial court has the discretion to allow a defendant to file a motion for relief from judgment that exceeds the twenty-limit limit. There is no showing that the trial court abused its discretion in this case.



Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

**JUN 12 2006**

Date



Chief Clerk

267865

To:  
 Clerk of the Court  
 District of Appeals  
 3100 West Grand Boulevard  
 Omaha, NE 68131

RECEIVED  
 2006 JAN 18 PM 1:31  
 CLERK OF APPEALS  
 COURT OF APPEALS  
 SAMUEL SCHULZ NENGEL  
 CLERK

Re: People of the State of Nebraska v. Victor G. Anderson, Defendant

Re:

Dear Clerk,

PLEASE find enclosed for filing with the Court the following:  
 (1) copies of Defendant's Application for Leave to Appeal, letter for Court's  
 Consideration, and three (3) copies of the orders and opinions for the Third  
 Circuit Court for the County of Jayne, and the order issued for the Court  
 of Appeals.

Respectfully,  
 Victor G. Anderson

*Victor G. Anderson*

Victor G. Anderson  
 Defendant-Appellant  
 Attorney General  
 1727 N. Lincoln Highway  
 Omaha, NE 68131

Date: 1-12-06

JAN 23 PM 2:16

CLERK OF APPEALS  
 COURT OF APPEALS  
 SAMUEL SCHULZ NENGEL  
 CLERK

267865

STATE OF MICHIGAN

IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLATE

-vs-

VICTOR C. JOHNSON  
DEFENDANT-APPELLEE

Supreme Court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

Legal Society Prosecutor  
Attorney for Plaintiff-Appellee  
1141 St. Antoine St.  
Detroit, MI 48226

Victor C. Johnson #313431  
Defendant-Appellant In Pro Per  
Jailery Creek Correctional Facility  
1737 E. Riverfront Highway  
Livonia, MI 48150

NOTICE OF HEARING

APPLICATION FOR LEAVE TO APPEAL

PEOPLE OF MICHIGAN

VERIFICATION

RECEIVED  
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STATE OF MICHIGAN

OFFICE OF THE CLERK

U.S. DISTRICT COURT

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RE:

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Case No. 127674

Case No. 248742

Case No. 03-1609-01

U.S. District Court  
Southern District of New York  
100 N. Broadway  
New York, NY 10038

Michael J. Constan (0113461)  
Defendant-Appellant In Pro Per  
1111 1/2 Avenue B  
Brooklyn, New York 11224  
1707 1/2 Avenue B  
Brooklyn, NY 11224

By:  
U.S. District Court  
Southern District of New York

OFFICE OF THE CLERK

PLEASE NOTE THAT ON 1-23-06 the original will send the Court  
to Court Defendant-Appellant Application For Leave To Appeal.

Respectfully,  
Michael J. Constan

Michael J. Constan  
Defendant-Appellant In Pro Per  
1111 1/2 Avenue B  
Brooklyn, New York 11224  
1707 1/2 Avenue B  
Brooklyn, NY 11224

Date: 1-12-06

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
JAN 23 PM 2:16  
CLERK'S OFFICE

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFFS-APPELLATES

-vs-

MICHIGAN C. (CHITCO)  
DEFENDANT-APPELLANT

Supreme Court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

Wayne County Prosecutor  
Attorney for Plaintiff-Appellates  
1341 St. Antoine St.  
Detroit, MI 48226

Victor D. Houston JS16461  
Defendant-Appellant In Pro Per  
Tulley Creek Correctional Facility  
1777 N. Elmwood Highway  
Livonia, MI 48150

APPLICATION FOR LEAVE TO APPEAL

Defendant-appellant states in support of this application:

1. The Chief Circuit Court for the County of Wayne turned down (1) different Opinions and Orders in this Case, July 25, 2005, together (2) 2005, and November 22, 2005.

2. The Defendant-appellant filed a motion for relief from judgment and supporting brief seeking relief from judgment of conviction and sentence in this case on April 22, 2005. The Chief Circuit Court ordered that Defendant-appellant's motion and brief in support be returned to Defendant, on July 25, 2005, stating: "CR 2.112 limits a motion and brief to 20 pages. CR 2.112 is a Civil procedure rule which applies to criminal cases pursuant to CR 2.101(3)". (See attached Order dated, July 25, 2005)

3. Defendant-appellant presented the Motion for relief from judgment and supporting brief in support along with a motion to file brief exceeding 20 pages on August 17, 2005. The Court ordered that the motion be returned and to provide

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COURT OF APPEALS  
SEP 17 2008

brief, on September 1, 2005, stating: "fifty pages for the Court of Appeals; 10 for the Court that have nothing but appeals, and that defendant's brief will follow and total to 30 pages." (See attached order dated September 2, 2005.)

4. Defendant-appellant's recent motion for relief from judgment and order to support, this case with an order that was republished for the Court of Appeals, *People of N.Y. District 2, York, Volume 1201004*, 1:07, unpublished, 22.

5. On November 22, 2005 the Court ordered that defendant-appellant's brief and brief his motion and brief to 30 pages, and that the order of opinion from the Court of Appeals applies only to the Court that issued the order. In that defendant-appellant must appeal the order dated September 1, 2005. (See attached order dated November 22, 2005)

6. Pursuant to CR 7.022(3)(3), the February 13, 1997 and January 21, 1997 orders of the York Circuit Court in this case are vacated, and the case is REMANDED to the York Circuit Court for further proceedings. Defendant-appellant motion for relief from judgment and order is denied. The 20 page limitation of CR 2.110(1)(2) is inapplicable to motions for relief from judgment or proceedings under subchapter 4.503 of the Court rules because CR 4.503(c) sets forth the requirements for motions filed under subchapter 4.503. See CR 4.021(3)(3). The above is stated for the Court of Appeals Order. (See Court of Appeals Order)

7. The Court of Appeals specifically stated that the 20-page limitation of CR 2.110(1)(2) is inapplicable to motions for relief from judgment or proceedings under subchapter 4.503 of the Court rules. In order to comply with this CR 2.110 to help defendant-appellant motion for relief from judgment and proceedings brief.

WHEREFORE, defendant-appellant asks the Court to grant relief from judgment and order dated September 1, 2005 and the orders from the York Circuit Court, and to have this case be the York Circuit Court for Court of Appeals.

Date: 1-12-06

Respectfully,  
Mich Hunter  
Michael S. Hunter, Sheriff  
Defendant-Appellant In Case No.  
Tollary Creek Correctional Facility  
1707 N. Huron Street  
Ionia, MI 48846

VERIFICATION

I, Michael S. Hunter, having read the foregoing and being fully advised of the contents thereof, declare that the statements contained herein are true and correct to the best of my knowledge, information, and belief.

Date: 1-12-06

Anna Estes

Notary

Respectfully,  
Mich Hunter  
Michael S. Hunter, Sheriff  
Defendant-Appellant In Case No.  
Tollary Creek Correctional Facility  
1707 N. Huron Street  
Ionia, MI 48846

ANNA ESTES, Notary Public  
State of Michigan  
County of Ionia  
My Commission Expires June 24, 2011  
Acting in the County of IONIA

COURT OF APPEALS  
STATE OF MICHIGAN

STATE OF MICHIGAN  
MICHIGAN-APPELLATE

-74-

STATE OF MICHIGAN  
MICHIGAN-APPELLATE

Supreme Court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

State of Michigan }  
County of Ionia }

PROOF OF SERVICE


I, Nicholas T. Johnston state that on 1-12-06 I did serve by first class mail the original and two (2) copies of Defendant-Appellant's notice of appeal and application for leave to appeal to;

Clerk of the Court

  
Court of Appeals  
3010 East Grand Boulevard  
Detroit, MI 48202

Having read the preceding I affirm that the preceding state is true and correct to the best of my knowledge, information, and belief.

Respectfully Submitted,

  
Nicholas T. Johnston, Clerk  
Defendant-Appellant in Pro Se  
Valley Creek Correctional Facility,  
1727 S. Hurwater Highway  
Ionia, MI 48866

Date: 1-12-06

  
Notary

ANNA ESTES, Notary Public  
State of Michigan  
County of Ionia  
My Commission Expires June 24, 2011  
Acting in the County of IONIA



**STATE OF MICHIGAN  
THIRD CIRCUIT COURT CRIMINAL DIVISION  
COUNTY OF WAYNE**

**PEOPLE OF THE STATE OF MICHIGAN**

**Plaintiff.**

**Case No. 03-1609  
Hon. Vera Massey Jones**

**MICHON HOUSTON**

**Defendant.**

\_\_\_\_\_ /

**OPINION AND ORDER**

At a session of said Court held in the Frank Murphy Hall of  
Justice-Criminal Division of the City of Detroit, State of Michigan,  
**County of Wayne on: July 25, 2005**

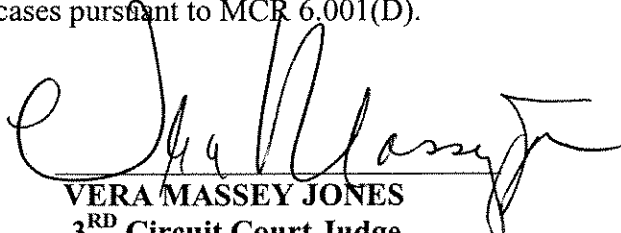
**PRESENT: Honorable Vera Massey Jones**

Defendant having filed a Motion for relief from judgment and a brief consisting  
of more than 50 pages.

**IT IS HEREBY ORDERED THAT** defendant's motion and brief be returned to  
defendant. MCR 2.119 limits a motion and brief to 20 pages. MCR 2.119  
is a civil procedure rule which applies to criminal cases pursuant to MCR 6.001(D).

July 25, 2005

**DATED**

  
**VERA MASSEY JONES**  
**3<sup>RD</sup> Circuit Court Judge**

**STATE OF MICHIGAN  
THIRD CIRCUIT COURT CRIMINAL DIVISION  
COUNTY OF WAYNE**

**PEOPLE OF THE STATE OF MICHIGAN**

**Plaintiff.**

**Case No. 03-1609  
Hon. Vera Massey Jones**

**MICHON HOUSTON**

**Defendant.**

\_\_\_\_\_ /

**ORDER**

At a session of said Court held in the Frank Murphy Hall of  
Justice-Criminal Division of the City of Detroit, State of Michigan,  
**County of Wayne on: September 8, 2005**

**PRESENT: Honorable Vera Massey Jones**

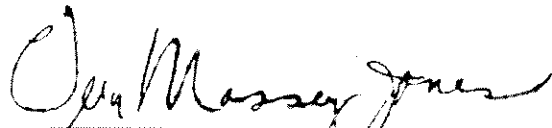
Defendant having filed a Motion for brief exceeding 20 pages, the court having read same and having reviewed the court file.

**IT IS HEREBY ORDERED THAT** the Motion be and is hereby **DENIED**.

Return brief and motion to defendant. Fifty pages for the Court of Appeals is for a court that does nothing but appeals. This is a trial court. You must limit your motion and brief to 20 pages.

September 8, 2005

**DATED**

  
\_\_\_\_\_  
**VERA MASSEY JONES**  
**3<sup>RD</sup> Circuit Court Judge**

**STATE OF MICHIGAN  
THIRD CIRCUIT COURT CRIMINAL DIVISION  
COUNTY OF WAYNE**

**PEOPLE OF THE STATE OF MICHIGAN**

**Plaintiff.**

MICHON HOUSTON

**Case No. 03-1609  
Hon. Vera Massey Jones**

**Defendant.**

\_\_\_\_\_ /

**OPINION AND ORDER**

**At a session of said Court held in the Frank Murphy Hall of  
Justice-Criminal Division of the City of Detroit, State of Michigan,  
County of Wayne on: November 28, 2005**

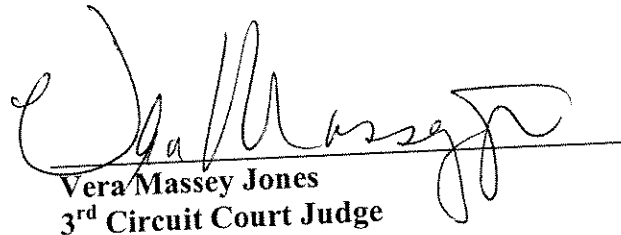
**PRESENT:** Honorable Vera Massey Jones

Defendant having resent a massive motion and brief.

**IT IS HEREBY ORDERED THAT** defendant must limit his motion and brief to 20 pages. An unpublished opinion from the Court of Appeals applies only to the court that received the order. You must appeal my order dated September 8, 2005.

November 28, 2005

**DATED**

  
**Vera Massey Jones  
3<sup>rd</sup> Circuit Court Judge**

Court of Appeals, State of Michigan

ORDER

People of MI v Kenneth P. Byrd

Docket # 201394

L.C. # 87-000901-FC

Joel P. Hoekstra

Presiding Judge

Donald E. Holbrook, Jr.

David H. Sawyer

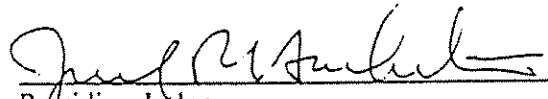
Judges

The Court orders that the motion for rehearing is GRANTED.

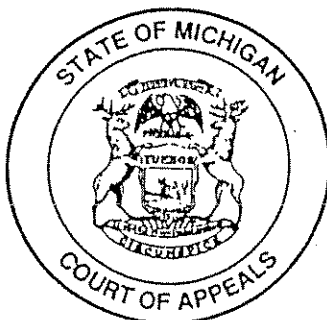
Pursuant to MCR 7.205(D)(2), the February 19, 1997 and January 29, 1997 orders of the Macomb Circuit Court in this cause are VACATED, and this cause is REMANDED to the Macomb Circuit Court for further proceedings on defendant's motion for relief from judgment not inconsistent with this order. The 20-page limitation of MCR 2.119(A)(2) is inapplicable to motions for relief from judgment in proceedings under subchapter 6.500 of the court rules because MCR 6.502(C) sets forth the requirements for motions filed under subchapter 6.500. See MCR 6.001(D)(3).

By this order, this Court expresses no opinion as to the merits of defendant's motion for relief from judgment.

This Court retains no further jurisdiction in this cause.

  
Presiding Judge

FILED  
OCT 23 PM 2:16  
STATE OF MICHIGAN  
COURT OF APPEALS



A true copy entered and certified by Ella Williams, Chief Clerk, on

October 23, 1997  
Date

Ella Williams  
Chief Clerk

267865

STATE OF MICHIGAN

IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLEE

-vs-

MICHON D. HOUSTON  
DEFENDANT-APPELLANT

Supreme Court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

Wayne County Prosecutor  
Attorney for Plaintiff-Appellee  
1441 St. Antoine St.  
Detroit, Mi 48226

Michon D. Houston #316461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846

MOTION FOR IMMEDIATE CONSIDERATION

Defendant-Appellant states in support of this motion:

1. On 1-12-06 defendant-appellant filed an application for leave to appeal.
2. If defendant-appellant is not granted the relief sought in the application, he will suffer irreparable harm because defendant-appellant has raised six (6) issues challenging his conviction and sentence. And these issues have considerable merit and involve legal principles of major significance in the area of post conviction relief. And defendant-appellant will not be able to successfully challenge his post conviction if the application is not granted.
3. Further, a defendant proceeding under subchapter 6.500 has two (2) major hurdles to overcome (on each individual issue he raises). Without eliminating some of his issues or the controlling authority, defendant cannot possibly include all of his issues in a 20 page document and still meet the requirements under MCR 6.500(D)(3).

4. Also defendant-appellant as of April 22, 2005 has a twelve (12) month time period to seek relief in the Federal Courts in a Writ of Habeas Corpus. Defendant-appellants time period will have exceeded, therefore he will not be able to seek relief in the Federal Courts if he is unable to exhaust all state remedies within the twelve (12) month time period. Having the motion for relief from judgment and brief in support filed is a major part of defendant-appellants exhaustion of state remedies. Without the motion for relief from judgment and brief in support filed within the twelve (12) month time period, defendant-appellant will not be able to present these issues to the Federal Courts because of default.

WHEREFORE, defendant-appellant asks the court to grant immediate consideration.

Respectfully submitted,

*Michon D. Houston*

Michon D. Houston #316461

Defendant-Appellant In Pro-  
Per

Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846

Dated: 1-12-06

VERIFICATION

I, Michon D. Houston having read the preceding aver that the statements herein are true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,

*Michon D. Houston*

Michon D. Houston #316461

Defendant-Appellant In Pro-  
Per

Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846

1-12-06

*Anna Estes*

ANNA ESTES, Notary Public  
State of Michigan  
County of Ionia  
My Commission Expires June 24, 2011  
Acting in the County of IONIA

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLEE

-VS-

MICHON D. HOUSTON  
DEFENDANT-APPELLANT

Supreme court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

---

Jayne County Prosecutor  
Attorney for Plaintiff-Appellee  
1641 St. Antoine St.  
Detroit, MI 48226

---

Michon D. Houston #316461  
Defendant-Appellant In Pro Per  
Bellaray Creek Correctional Facility  
1727 W. Bluewater Highway  
Lonia, MI 48846

---

NOTICE OF HEARING

APPLICATION FOR LEAVE TO APPEAL/W BRIEF IN SUPPORT

PROOF OF SERVICE

VERIFICATION

AFFIDAVIT OF INDIGENCY

Motion to Waive Fee's and Costs

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TABLE OF AUTHORITIES

MICHIGAN COURT RULES

MCR 2.119	1,2,4,5
MCR 6.001(D)	1
MCR 7.205 (D)(2)	2
MCR 2.119 (A) (2)	2,4,5
MCR 6.001 (D)(3)	2,4
MCR 6.500	2,4,5

CASES

People v. Kenneth P. Byrd, Docket #201394, L.C. #87-000901-F.C. unpublished	2,3,4
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STATEMENT OF APPELLATE JURISDICTION

The The Order/Opinion was entered in this case on July 25, 2005; The Motion for Relief from judgement was filed on April 22, 2005; The

Jurisdiction is conferred on this Court by Const 1963, art 1, §20; MCL 600.308(1), MSA 27A.308(1); MCL 770.03, MSA 28.1100; MCR 6.425(F)(3); MCR 7.203 (A); and MCR 7.204.

STATEMENT OF QUESTIONS PRESENTED

1. \_\_\_\_\_ WAS DEFENDANT DENIED THE RIGHT TO FILE A MOTION FOR RELIEF FROM JUDGEMENT AND BREIF IN SUPPORT WHEN THE CIRCUIT COURT DENIED DEFENDANTS MOTION FOR RELIEF FROM JUDGEMENT DUE TO IT BEING OVER @)00PAGES.

Trial Court answers, "No".

Defendant-Appellant answers, "Yes".

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLEE

-vs-

MICHAEL D. HOUSTON  
DEFENDANT-APPELLANT

Supreme Court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

Wayne County Prosecutor  
Attorney for Plaintiff-Appellee  
1441 St. Antoine St.  
Detroit, MI 48226

Michael D. Houston #316461  
Defendant-Appellant In Pro Per  
Gallaway Creek Correctional Facility  
1727 J. Bluewater Highway  
Livonia, MI 48346

APPLICATION FOR LEAVE TO APPEAL

Defendant-appellant states in support of this application:

1. The Third Circuit Court for the County of Wayne issued three (3) different Opinions and Orders in this Case, July 25, 2005, September 3, 2005, and November 23, 2005.

2. The defendant-appellant filed a motion for relief from judgment and supporting brief seeking relief from judgment of conviction and sentence in this case on April 22, 2005. The Third Circuit Court ordered that defendant-appellants motion and brief in support be returned to defendant, on July 25, 2005, stating: "MCR 2.119 limits a motion and brief to 20 pages. MCR 2.119 is a Civil procedure rule which applies to criminal cases pursuant to MCR 3.001(D)". (See attached Order dated, July 25, 2005)

3. Defendant-appellant resent the Motion for relief from judgment and brief in support along with a motion to file brief exceeding 20 pages, on August 17, 2005. The Court Ordered that the motion be returned and is hereby

denied, on September 2, 2005, stating: "fifty pages for the Court of Appeals is for a Court that does nothing but appeals, and that defendant must limit motion and brief to 20 pages. (See attached Order dated September 2, 2005)

4. Defendant-appellant resent motion for relief from judgment and brief in support, this time with an Order that was unpublished from the Court of Appeals, People of Mi v. Kenneth P. Byrd, Docket #201294, L.C. #07-000901-70.

5. On November 23, 2005 the Court ordered that defendant-appellant again must limit his motion and brief to 20 pages, and that an unpublished opinion from the Court of Appeals applies only to the Court that recieved the order. And that defendant-appellant must appeal the order dated September 2, 2005. (See attached order dated November 23, 2005)

6. Pursuant to MCR 7.205(D)(2), the February 19, 1997 and January 23, 1997 orders of the Macomb Circuit Court in this Cause are vacated, and this cause is REMANDED to the Macomb Circuit Court for further proceedings on defendants motion for relief from judgment not inconsistent with this order. The 20 page limitation of MCR 2.119(A)(2) is inapplicable to motions for relief from judgment in proceedings under subchapter 6.500 of the Court rules because MCR 6.502(c) sets forth the requirements for motions filed under subchapter 6.500. See MCR 6.001(D)(3). The above is quoted from the Court of Appeals Order. (See Court of Appeals Order)

7. The Court of Appeals specifically stated that the 20-page limitation of MCR 2.119(A)(2) is inapplicable to motions for relief from judgment in proceedings under subchapter 6.500 of the Court rules. In which the trial court used MCR 2.119 to deny defendant-appellants motion for relief from judgment and supporting brief.

WHEREFORE, defendant-appellant asks the Court to grant this application and, upon final hearing. And vacate the orders from the Wayne Circuit Court, and Remand this cause to the Wayne Circuit Court for further proceedings.

STATEMENT OF FACTS

Defendant-Appellant was convicted by jury on April 7, 2003, of first degree premeditated murder, felon in possession of a firearm, and felony firearm in Wayne County Circuit Court, the Honorable Vera Massey Jones presiding. Defendant was sentenced on April 22, 2003, to mandatory life and 11/2 to 5 years, consecutive to 2 years. On November 9, 2004, the Court of Appeals Affirmed these convictions in an unpublished opinion. Then on May 31, 2005 the Michigan Supreme Court denied Application for leave to appeal.

Then on April 22, 2005 defendant-appellant filed a motion for relief from judgement and supporting brief seeking relief from judgement and conviction and sentence. The Third Circuit Court Ordered that defendant must limit his motion and brief to 20 pages. Defendant then resent the 50 page motion and brief with a motion to exceed 20 pages on August 17, 2005. The Circuit Court denied defendant-appellants motion for relief from judgement and brief once again, stating that defendant must limit his motion and brief to 20 pages. Defendant resent the motion for relief from judgement and brief, this time with an unpublished opinion from the Court of Appeals (People v. Kenneth P. Bryd, Docket #201394, L.C.#87-000901-FC.) The Circuit Court sent the motion and brief back to defendant-appellant again, stating that the motion and brief must have a limit of 20 pages, and that defendant-appellant must appeal the order given September 8, 2005. (See order's and opinion's attached).

ARGUMENT 1

DEFENDANT-APPELLANT WAS DENIED THE RIGHT TO FILE  
A MOTION FOR RELIEF FROM JUDGEMENT AND BRIEF IN  
SUPPORT BY THE CIRCUIT COURT DENYING DEFENDANTS-  
APPELLANTS MOTION BECAUSE IT WAS OVER 20 PAGES

The standard of review for filing Motions for Relief from Judgement and set requirements are under MCR 6.500, and MCR 6.001(D)(3).

Defendant-Appellant filed a Motion for Relief from Judgement and brief in support to the Third Circuit Court for the County of Wayne on April 22, 2005. The Circuit Court returned defendant-appellants motion and brief with an Order stating that defendant-appellant must limit his motion and brief to 20 pages. Also stating that MCR 2.119 limits a motion and brief to 20 pages. Defendant-Appellant resent the Motion for Relief from Judgement and brief in support again on August 17, 2005, with a motion to file brief exceeding 20 pages. The Circuit Court again returned defendant-appellants motion and brief, with another Order stating that motion is denied because fifty pages is for a Court that does nothing but appeals, and that defendant must limit his motion and brief to 20 pages. Once again defendant-appellant resent the motion for relief from judgement and brief in support, this time with an Order from the Court of Appeals dated October 28, 1997, People v. Kenneth P. Bryd, Docket #201394, L.C. #87-000901-FC. The Circuit Court again sent back defendant-appellants motion and brief with another Order stating that defendant must limit his motion and brief to 20 pages, and that an unpublished order from the Court of Appeals applies only to the Court that received the Order. And also stated that defendant-appellant must appeal the order dated september 8, 2005. (see attached orders and opinions).

The 20 page limitation of MCR 2.119 (a)(2) is inapplicable to Motions for Relief from Judgement in proceedings under subchapter 6.500 of the Court Rules because MCR 6.502(c) sets forth the requirements for motions filed under subchapter 6.500. See MCR 6.001(d)(3).

The Court of Appeals specifically stated that the 20 page limitation of MCR 2.119 (A)(2) is inapplicable to motions filed ~~for~~ for Relief from Judgement in proceedings under subchapter 6.500 of the Court Rules. The Circuit Court used MCR 2.119 to deny defendants-appellants motion for relief from judgement and supporting brief, Defendant-Appellant asks this Court to grant this Application and reverse the Circuit Courts Order based on the above, because 6.502(c) sets forth the requirements for motions filed under subchapter 6.500, not MCR 2.119.



RELIEF

WHEREFORE, this Court should reverse the Circuit Courts decision,

Respectfully submitted,

Michon D. Houston

Michon D. Houston #316461

Bellamy Creek Correctional Facility

1727 Bluewater Highway

Ionia, MI 48846

Dated: 2-23-06

STATEMENT OF FACTS

EXPLAINING THE DELAY IN FILING THE APPEAL

The Third Circuit Court for the County of Wayne issued three separate opinions and Orders in this case, July 25, 2005; September 8, 2005; and November 28, 2005. The opinions and Orders were issued in defendants-appellants case because of the fact that defendant filed a motion for Relief From judgement and supporting brief, seeking relief from judgement and conviction and sentence in this case. Defendant-Appellant filed the Motion for Relief from judgement three different times, april 22, 2005; August 17,2005; and November 14,2005; In which the Circuit Court denied for the reasons of the motion and brief being over 20 pages. (See attached Orders). The reason the defendant-appellant did not meet the 21 day deadline in an application for leave to appeal to appeal the Circuit Courts decision is because defendant-appellant was not aware that he had to appeal the Oder dated September 8, 2005 until an order was issued on November 28,2005, in which that order stated to appeal the order issued september 8, 2005. It never was stated in the order issued September 8, 2005 to appeal the decision. Therefore when defendant-appellant was informed to appeal the september 8. 2005 order in the order issued on November 28,2005 it was already well over the 21 day requirement. Furthermore defendant-appellant lacks the ability and proper knowledge to perfect a proper Application for leave to appeal. Defendant-Appellant is filing the Application in Pro Per, with no assistance, thereforee appellant probrably would have needed more than 21 days.

STATEMENT OF MICHIGAN  
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLEE

-vs-

MICHON D. HOUSTON  
DEFENDANT-APPELLANT

\_\_\_\_\_  
WAYNE County Prosecutor  
Attorney for plaintiff-Appellee  
1441 St. Antoine St.  
Detroit, Mi 48226

\_\_\_\_\_  
Michon D. Houston #316461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846


\_\_\_\_\_  
MOTION FOR WAIVER OF FEES/COSTS

\_\_\_ NOW COMES Defendant-Appellant Michon D. Houston, in Pro Per and moves this Honorable Court pursuant to MCR 2.002(D) for waiver of fees/costs associated with the defendant-appellant's Motion for Relief from Judgement and any evidentiary matters arising ~~there~~ therefrom.

Defendant-Appellant has submitted along with this motion, defendant's-appellant's Affidavit of Indegency with a certificate of Inmate Account Activit establishing his indigency for the Court.

It is for the reasons set forth in Defendant-Appellants Affidavit of Indigency that he prays this Honorable Court will grant this motion.

Respectfully Submitted,

  
\_\_\_\_\_  
Michon D. Houston #316461  
Defendant-Appellant in Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLEE

-vs-

MICHON D. HOUSTON  
DEFENDANT-APPELLANT

Supreme Court No. 127674

Court of Appeals No. 248742

Lower Court No. 03-1609-01

\_\_\_\_\_  
Wayne County Prosecutor  
Attorney for Plaintiff-Appellee  
1441 St. Antoine St.  
Detroit, Mi 48226

\_\_\_\_\_  
Michon D. Houston #316462  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846

AFFIDAVIT OF INDIGENCY

I, Michon D. Houston state and affirm as follows;

I am indigent. I have no moneys, stocks, bonds, or other tangible assets.  
My only source of income is support from family and friends. I declare  
that the ~~████~~ statements herein are true and correct to the best of my  
knowledge, information and belief.

Respectfully Submitted,

Michon Houston  
Michon D. Houston #316461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, MI 48846

2/24/06 M.D.H.  
Dated: 2-23-06

MICHAEL R. WALCZAK Notary Public  
Ionia, MI  
Notary Public Expires Mar. 2, 2006

M.R.W.  
2/24/06

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN  
PLAINTIFF-APPELLEE

-vs-

MICHON D. HOUSTON  
DEFENDANT-APPELLANT

Supreme Court No. 127674

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Wayne County Prosecutor  
Attorney for Plaintiff-Appellee  
1441 St. Antoine St.  
Detroit, Mi 48226

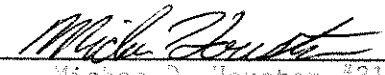
Michon D. Houston #315461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846

To;  
Wayne County Prosecutor  
Attorney for Plaintiff-Appellee

NOTICE OF HEARING

PLEASE TAKE NOTICE that on 1-23-06 the undersigned will move the Court  
to grant Defendant-Appellants Application for Leave to Appeal.

Respectfully Submitted,

  
Michon D. Houston #315461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, Mi 48846

Dated: 1-12-06

Respectfully Submitted,

Dated: 1-12-06

/s/ Michon D. Houston  
Michon D. Houston #315461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 W. Bluewater Highway  
Ionia, MI 43346

VERIFICATION

I, Michon D. Houston, having read the preceding and being fully apprised thereof aver that the statements contained herein are true and correct to the best of my knowledge, information, and belief.

Signed,

Michon D. Houston  
Michon D. Houston #315461  
Defendant-Appellant In Pro Per  
Bellamy Creek Correctional Facility  
1727 Bluewater Highway  
Ionia, MI 43346

Dated: 1-12-06

Anna Estes  
Notary

ANNA ESTES, Notary Public  
State of Michigan  
County of Ionia  
My Commission Expires June 24, 2011  
Acting in the County of IONIA

**STATE OF MICHIGAN  
THIRD CIRCUIT COURT CRIMINAL DIVISION  
COUNTY OF WAYNE**

**PEOPLE OF THE STATE OF MICHIGAN**

**Plaintiff.**

**Case No. 03-1609  
Hon. Vera Massey Jones**

**MICHON HOUSTON**

**Defendant.**

\_\_\_\_\_ /

**OPINION AND ORDER**

At a session of said Court held in the Frank Murphy Hall of  
Justice-Criminal Division of the City of Detroit, State of Michigan,  
**County of Wayne on: July 25, 2005**

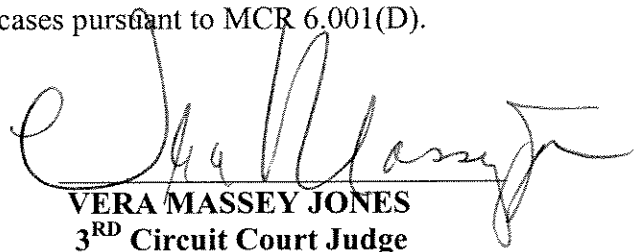
**PRESENT: Honorable Vera Massey Jones**

Defendant having filed a Motion for relief from judgment and a brief consisting  
of more than 50 pages.

**IT IS HEREBY ORDERED THAT** defendant's motion and brief be returned to  
defendant. MCR 2.119 limits a motion and brief to 20 pages. MCR 2.119  
is a civil procedure rule which applies to criminal cases pursuant to MCR 6.001(D).

July 25, 2005

**DATED**

  
**VERA MASSEY JONES**  
**3<sup>RD</sup> Circuit Court Judge**

**STATE OF MICHIGAN  
THIRD CIRCUIT COURT CRIMINAL DIVISION  
COUNTY OF WAYNE**

**PEOPLE OF THE STATE OF MICHIGAN**

**Plaintiff.**

**Case No. 03-1609  
Hon. Vera Massey Jones**

**MICHON HOUSTON**

**Defendant.**

\_\_\_\_\_ /

**ORDER**

At a session of said Court held in the Frank Murphy Hall of  
Justice-Criminal Division of the City of Detroit, State of Michigan,  
**County of Wayne on: September 8, 2005**

**PRESENT: Honorable Vera Massey Jones**

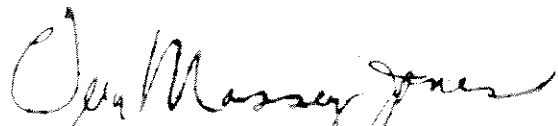
Defendant having filed a Motion for brief exceeding 20 pages, the court having read same and having reviewed the court file.

**IT IS HEREBY ORDERED THAT** the Motion be and is hereby **DENIED**.

Return brief and motion to defendant. Fifty pages for the Court of Appeals is for a court that does nothing but appeals. This is a trial court. You must limit your motion and brief to 20 pages.

September 8, 2005

**DATED**

  
\_\_\_\_\_  
**VERA MASSEY JONES**  
**3<sup>RD</sup> Circuit Court Judge**



**STATE OF MICHIGAN  
THIRD CIRCUIT COURT CRIMINAL DIVISION  
COUNTY OF WAYNE**

**PEOPLE OF THE STATE OF MICHIGAN**

**Plaintiff.**

MICHON HOUSTON

**Case No. 03-1609  
Hon. Vera Massey Jones**

**Defendant.**

\_\_\_\_\_ /

**OPINION AND ORDER**

**At a session of said Court held in the Frank Murphy Hall of  
Justice-Criminal Division of the City of Detroit, State of Michigan,  
County of Wayne on: November 28, 2005**

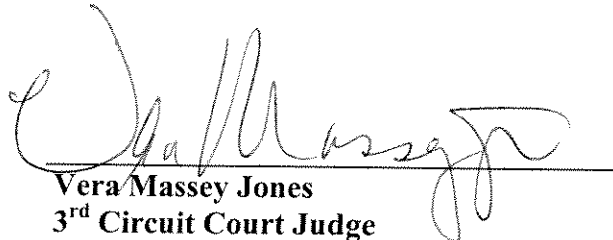
**PRESENT:** Honorable Vera Massey Jones

Defendant having resent a massive motion and brief.

**IT IS HEREBY ORDERED THAT** defendant must limit his motion and brief to 20 pages. An unpublished opinion from the Court of Appeals applies only to the court that received the order. Your must appeal my order dated September 8, 2005.

November 28, 2005

**DATED**

  
Vera Massey Jones  
3<sup>rd</sup> Circuit Court Judge

Court of Appeals, State of Michigan

ORDER

People of MI v Kenneth P. Byrd

Docket # 201394

L.C. # 87-000901-FC

Joel P. Hoekstra  
Presiding Judge

Donald E. Holbrook, Jr.

David H. Sawyer

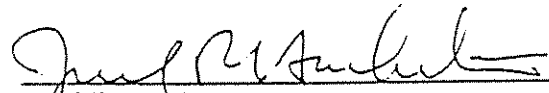
Judges

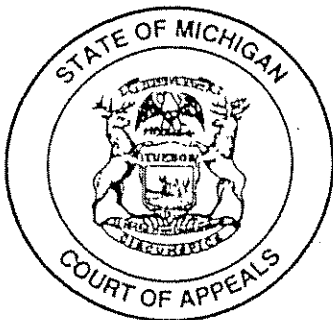
The Court orders that the motion for rehearing is GRANTED.

Pursuant to MCR 7.205(D)(2), the February 19, 1997 and January 29, 1997 orders of the Macomb Circuit Court in this cause are VACATED, and this cause is REMANDED to the Macomb Circuit Court for further proceedings on defendant's motion for relief from judgment not inconsistent with this order. The 20-page limitation of MCR 2.119(A)(2) is inapplicable to motions for relief from judgment in proceedings under subchapter 6.500 of the court rules because MCR 6.502(C) sets forth the requirements for motions filed under subchapter 6.500. See MCR 6.001(D)(3).

By this order, this Court expresses no opinion as to the merits of defendant's motion for relief from judgment.

This Court retains no further jurisdiction in this cause.

  
Presiding Judge



A true copy entered and certified by Ella Williams, Chief Clerk, on

October 23, 1997  
Date

  
Chief Clerk